

File No. Continued

Board of Estimates and is a subject over which the Council cannot act by legislation. It is a subject which the framers of the Charter and the General Assembly have clearly placed beyond the control of the City Council. But the question is not a new one. It was the subject of an opinion dated November 30, 1903, by Hon. Wm. Cabell Bruce, then City Solicitor. The City Council had asked Mr. Bruce for his opinion as to how far the authority of the Board of Estimates extended in the matter of granted minor privileges. Mr. Bruce first quoted the proviso of the Charter and the concluding part of his opinion with the proviso reads:

"Provided, That the right to use the streets, avenues, alleys, or other public property, by any person or body corporate for bow or bay windows, hitching posts, areaways, steps, planting of trees, storm deors, drain and drain pipes, stands or other such temporary or similar uses, may be granted by the Board of Estimates for such an amount of money and upon such terms and conditions, as the said Board may consider right and proper.

"And the proviso then goes on and declares that no ordinance or advertisement shall be necessary or made in such cases as are named in the provision to this section.

"I am of the opinion, therefore, that the Board of Estimates has exclusive jurisdiction over minor privileges, and that the legislative powers of the Mayor and City Council of Baltimore do not include them, or any of them."

Vol. 1, P. 288 -- Opinions, City Solicitor.

It must have been realized by the framers of the city's organic instrument that there were many uses to which the streets might properly be subjected, which were too simple in character to warrant a formal franchise by ordinance, and involving complicated legislative procedure. Accordingly, a short and direct way was provided for minor privileges such as is here under consideration. If Section 37 had not provided for this method, then no authority save the Council could grant such privileges. But the manner indicated by the Charter for granting minor privileges; to wit: the Board of Estimates, excludes in my opinion, any other method of grant. This construction is made more certain by the language of Section 37, "no ordinance or advertisement